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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eighth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 May 1993, at 3 p.m.

Chairperson: Mr. ALSTON
later: Mr. MUTERAHEJURU

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Canada

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GE.93-16584 (E)

The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS (agenda item 5) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Canada (E/1990/6/Add.3)

1. At the invitation of the Chairperson, Mr. Donaghy, Mr. Kessel, Mr. Sirois, Mr. Scratch, Mr. Roberts and Mr. Deslauriers took places at the Committee table.

2. Mr. DONAGHY (Canada) welcomed the opportunity to attend the review by the Committee of Canada's second periodic report on articles 10 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.3). His Government attached importance to the Committee's dialogue with States parties, and it looked forward to hearing the Committee's comments on the measures adopted in Canada to implement the provisions of the Covenant.

3. The 1982 Constitution Act made it a duty of the federal, Government and all provincial and territorial governments to promote equal opportunity for the wellbeing of Canadians, to further economic development to reduce disparity in opportunities, and to provide essential services of reasonable quality to all Canadians. The Act also committed the Parliament and Government of Canada to the principle of making equalization payments to ensure that provincial governments had sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.

4. In addition, many other factors facilitated the implementation of international human rights treaties in Canada, including the existence of constitutional protection of rights, the human rights laws adopted by the federal, Government and provincial and territorial governments, the existence of human rights agencies and ombudsmen in most jurisdictions, the freedom of the population to have recourse to the courts of law, the communications media - which operated freely and without any interference from Government, or an alert public opinion, and the dynamic non-governmental organizations which operated freely and often with financial support from Governments.

5. For example, section 15 of the Canadian Charter of Rights and Freedoms guaranteed the right of everyone in Canada to the equal benefit and protection of the law; it stipulated that all legislation conferring economic, social or cultural rights must not be discriminatory. Subsection 15 (2) permitted the adoption of special measures aimed at the amelioration of the conditions of disadvantaged individuals and groups. One example of the application of that section in the economic and social context was the recent decision by the Supreme Court of Canada (Tetreault-Gadoury v. Canada) which stated that the denial of unemployment insurance benefits to persons over the age of 65 involved discrimination on the basis of age and therefore contravened

section 15 of the Charter. In another decision (The Queen v. Turpin), the Supreme Court of Canada had stated that the purpose of section 15 was to remedy or prevent discrimination against groups suffering social, political and legal disadvantage in society, thus interpreting the section as extending beyond the grounds enumerated in it to other analogous groups and therefore to individual characteristics associated with membership of a disadvantaged group. Another example of the application of section 15 was a decision in March 1993 of the Nova Scotia Court of Appeal (Sparks v. Dartmouth/Halifax County Regional Housing Authority). In that case, to which in fact the Committee had referred in its questions, the Court held that provisions of the Nova Scotia Residential Tenancies Act denying security of tenure to public housing tenants in circumstances where other tenants had security of tenure infringed section 15; the plaintiff was a single black mother on welfare assistance. The Court relied on statistical evidence about the class of public housing tenants to conclude that the impugned provisions amounted to discrimination on the basis of race, sex and income. The Committee would be interested to learn that the Nova Scotia Government had decided not to appeal that decision.

6. Canada had a complete system of social security which included financial assistance to everyone in need and a universal health care system. All children must attend school, generally up to the age of 16, which meant that all individuals had the possibility to complete their primary and secondary education. Moreover, university education was accessible to all and tuition fees remained low compared to the total cost of post-secondary education.

7. People in need received assistance from the State to help them meet their basic needs, including food, housing and clothing. The federal legislation to provide for cost-sharing of that assistance, the Canada Assistance Plan Act, required that assistance be available regardless of the cause of need and that decisions of eligibility be subject to an appeal process.

8. There were no restrictions on the rights of the population to participate in cultural activities and to benefit from scientific and technological progress. Canadians of all origins were free to preserve their cultural and linguistic heritage. Multiculturalism programmes of the federal and most provincial Governments assisted members of ethnocultural communities to gain access to Canadian cultural institutions. The multicultural heritage of Canadians was protected by the Constitution and in 1988, the Parliament of Canada had unanimously passed the Canadian Multiculturalism Act, the first of its kind in the world, setting out the Government's policy of multiculturalism which was designed to preserve and enhance the multicultural heritage of Canadians while working to achieve the equality of all Canadians in the country's economic, social, cultural and political life.

9. The Government was striving to build a new relationship between aboriginal and non-aboriginal Canadians. The Native Agenda, announced in 1990, was a renewed effort to address the concerns of the aboriginal peoples of Canada, particularly those of aboriginal peoples in contemporary life. To that effect the Royal Commission on Aboriginal Peoples, which had a majority of aboriginal members had been established to examine the social, economic and cultural concerns of aboriginal peoples and was expected to report in 1994. In addition, the Government was committed to settling aboriginal claims to

land. Tangible evidence of the progress being made would be seen when the Prime Minister signed a land claim agreement with the Tungavik Federation of Nunavut, which would be the largest comprehensive land claim settlement ever reached in Canada and would provide 17,500 Inuit with ownership of 350,000 square kilometres of land and financial compensation of $1.14 billion over 14 years. The agreement also provided for the Inuit to share in resource royalties, to have guaranteed wildlife harvesting rights and to participate in decision-making processes dealing with land and environmental management.

10. Data on the practical applications of the rights recognized in articles 10 to 15 as well as data on disadvantaged groups had been also distributed to members of the Committee in an additional effort to analyse the degree of implementation of the provisions of the Covenant. Moreover, extensive consultations had taken place in the preparation of the current report; more than 20 federal departments and agencies had been involved in the preparation of the federal part of it and a similar effort had been made with regard to the provincial and territorial sections. In the case of Quebec, some 10 departments and agencies had participated in the compilation of that province's section.

11. While Canada was proud of its realizations in respect of the level of implementation of the Covenant, it recognized that there were difficulties: it was evident that disparities existed and that people with low incomes were disadvantaged compared to the rest of the population. In recent years, Canada, like many other countries, had faced budget deficits, which tended to limit the freedom of governments to act; that situation had been accentuated by the recent recession. However, basic programmes had remained intact despite the fact that there had to be budget restraints. In that respect, he referred to the recent budget speech of the Canadian Minister of Finance, in which it had been stated that two major areas representing $50 billion in annual federal programme spending had been exempted from reductions. Those areas comprised: (i) income security benefits for the elderly, programmes specifically for the disabled, veterans' pensions and allowances, selected native programmes, the Canadian Job Strategy, and famine relief, and (ii) major federal transfers to provinces, which would continue to grow at a rate greater than other federal programme spending. That decision illustrated how committed the Government of Canada remained to meet the needs of the most disadvantaged.

12. Concerning the incorporation by the various provinces of the rights recognized in articles 10 to 15 of the Covenant, it should be noted that international treaties were not automatically part of the law of the land. Their provisions could be incorporated into domestic law either by the enactment of a statute giving the treaty force of law or, where necessary by amendment of domestic law to make it consistent with the treaty. The latter approach had been adopted in the case of the Covenant, and domestic laws had been modified to ensure protection for those rights. The report currently before the Committee which described the legislative measures adopted by federal, provincial and territorial governments, and it referred to more than 350 laws, of which more than 300 were in the provincial and territorial sections.

13. Intergovernmental cooperation in the implementation of international human rights treaties was another important aspect of the Canadian system, achieved through the activities of a federal-provincial-territorial committee on human rights and also through regular meetings of ministers and officials in various fields of activity. In that connection he drew attention to paragraphs 14 to 26 of his country's report. Such cooperation included the preparation of reports to be submitted under international human rights treaties. Provincial and territorial governments generally prepared their own sections and complete consultations were carried out within and between all levels of governments. Consultations also included follow-up to the review of Canada's reports by United Nations bodies, and the summary records of meetings during which Canada's reports were examined were distributed to the Federal departments provincial and territorial governments which had responsibilities for the implementation of the various provisions of the Covenant. The reports were distributed free of charge in Canada to government officials, public libraries, non-governmental organizations and interested individuals.

14. In Canada, the non-governmental sector was very active in all aspects of public life. Following representations and proposals by it, many changes had been made to legislation, policies and programmes.

15. In conclusion, he noted that the pre-sessional working group had stated that Canada's report had provided a comprehensive and exhaustive picture of legislative provisions and programmes relating to the rights recognized in articles 10 to 15 but that a record of the practical applications of those rules and programmes was largely missing. At the time of acceding to the Covenant, the Canadian Government had undertaken to submit reports on the measures which it had adopted and the progress made in achieving the observance of the rights recognized therein; he believed that the Government had complied with that obligation. At the same time, bearing in mind that since the submission of its first report, his country had been under pressure to limit the size of its reports, efforts had been made to avoid including too much detail in the report currently before the Committee. He understood moreover that the Committee had recently received a submission and heard a presentation from two Canadian non-governmental organizations and looked forward to reviewing their submission which his delegation had just received from the secretariat.

16. Mr. SCRATCH (Canada) said that in addressing the issues raised in document E/C.12/1993/WP.7 concerning Canadian jurisprudence and legal protections in Canada implementing the rights recognized in articles 10 to 15 of the Covenant, he would attempt to focus on what he considered to be the major issues on Canadian judicial decisions and laws concerning those rights.

17. He would begin by pointing out that the Canadian Charter of Rights and Freedoms had only become part of the Canadian Constitution in 1982. It was still at the early stages of interpretation. Relatively few cases dealing with economic rights had been decided by the Supreme Court of Canada so far.

18. As the Committee had observed, sections 7 and 15 of that Charter contained rights which might be used by disadvantaged persons in seeking remedies for violations of social and economic rights. Section 7 guaranteed the right to security of the person and the right not to be deprived thereof,

except in accordance with the principles of fundamental justice. Section 15 guaranteed the right to equal benefit and protection of the law without discrimination on a number of grounds. To date, neither section 7 nor 15 had been interpreted as setting out obligations requiring governments to pass laws guaranteeing specific economic or social benefits. However, especially under section 15, governments which did provide for such benefits were required to do so without discrimination. It was important to note that the Supreme Court of Canada had determined that the list of prohibited grounds of discrimination in section 15 was not exhaustive; it had stated that the primary purpose of that section was to protect members of disadvantaged groups and that other analogous groups were included within its scope. However, the extent of those unlisted analogous grounds was not yet known. Examples of how Canadian Courts applied that principle had been outlined by the previous speaker.

19. In connection with article 13 of the Covenant, section 23 of the Charter accorded Canadian citizens the right to have their children educated at primary and secondary levels in the minority levels of the province where they resided, if certain conditions were met. In a 1990 decision of the Supreme Court of Canada (Mahé v. the Queen), it was interpreted to include the right of minority language groups to manage and control their own educational facilities.

20. In the Fernandez case, on which the Manitoba Court of Appeal had held that section 7 of the Charter did not give the right to live in a particular setting, the complainant had argued that rights under sections 7 and 15 had been violated because the social assistance plan in Manitoba did not pay for a care giver which would enable him to live in his own apartment rather than in a hospital. In its analysis, the Manitoba Court of Appeal emphasized that there had been no denial of rights because the person's basic needs were being met.

21. While Canadian courts might not have interpreted the Constitution as requiring government to pass laws implementing the economic and social rights contained in articles 10 to 15 of the Covenant, they had provided the basic level of protection for Canadians seeking those rights. While the guarantee of security of the person under section 7 of the Charter might not lead to a right to a certain type of social assistance, it ensured that persons were not deprived of the basic necessities of life. Section 15 of the Charter had been used very effectively to ensure that when governments did provide benefit programmes, they provided benefits without discrimination.

22. Another important point to note was that, while federal and provincial parliaments could not by the passage of ordinary legislation force the courts to adopt a particular interpretation of the Constitution, Canadian courts did take Canada's international obligations into consideration when interpreting constitutional provisions. For example, in interpreting the scope of section 2 (d) of the Charter on freedom of association as applied to the rights of workers to bargain collectively and strike, one of the judges of the Supreme Court of Canada had turned to article 8 of the Covenant for guidance. In another case, the Quebec Superior Court turned to article 10 (1) of the Covenant when interpreting the scope of parental authority in a family law case.

23. During recent constitutional discussions between the Federal Government, provincial and territorial governments on the reform of the Constitution, proposals had been considered to include in the Constitution social and economic provisions which would have committed governments to a number of policy objectives compatible with articles 10 to 15. However, that package of constitutional reform proposals had not been adopted and it was difficult to predict when constitutional reform would return to the national agenda in Canada.

24. Concerning the application of section 7 of the Charter to those in need of health care, he referred to the Wilson v. Medical Services Commission (B.C.) case mentioned in his country's report. Health care issues had also been raised in the Ontario Nursing Home Association v. Ontario case on the funding of extended care in nursing homes as opposed to homes for the aged, and Brown v. British Columbia on the funding of experimental drug therapy for AIDS patients. In both cases the courts had held that there had been no breach of section 7 because the plaintiff had not established that he had not been adequately cared for or had lacked access to drug therapy. It was the position of governments at all levels in Canada, that while section 7 might provide certain guarantees for basic levels of support and health care, the decisions on how those services should be provided should be left to elected governments which were accountable to the electors and responsible for raising revenues to fund those programmes. So far most courts had recognized that it was the role of legislators to determine what programmes should be provided and how they should be designed as the courts did not possess the necessary expertise to make such decisions.

25. Concerning the case of Finlay v. Canada (Minister of Finance) on the right of a provincial government to make deductions from social assistance payments because of previous overpayments, the Supreme Court of Canada had held that the government in question had taken into account the basic needs of the respondent in determining the amount of the deduction, pointing out that there did not need to be an "exact fit" and that the provinces were allowed some flexibility.

26. The previous speaker had referred to a number of laws passed to incorporate the rights under articles 10 to 15. In addition, most provincial human rights codes provided some protection to persons seeking to enforce those rights. However most human rights codes addressed the right to freedom from discrimination in areas of employment, accommodation and services, rather than directly conferring economic, social and cultural rights. Unfortunately, it had not been possible in the time available to review all the provisions of provincial human rights codes and the cases in which individuals had sought remedies for violations of economic or social rights covered by articles 10 to 15. It should be borne in mind that there were 10 provinces, two territories and the Federal Government, each with their own codes and with their own caseloads. It was hoped that the issue might be addressed in Canada's next report.

27. The extent to which non-nationals were not guaranteed rights covered by articles 10 to 15 was also a matter which would require a full examination of the many hundreds of relevant provincial and federal laws and would have to be left for a forthcoming report. It should none the less be pointed out that at

the constitutional level, only electoral rights, the right to enter, remain in and leave Canada, and minority education rights were guaranteed only to Canadian citizens. The remainder of the Charter rights applied to everyone irrespective of citizenship. The first case to come before the Supreme Court of Canada under section 15 of the Charter dealt precisely with the right of a non-citizen to practice law in one of the Canadian provinces. The Supreme Court found that a law prohibiting that right on the basis of citizenship was unconstitutional. It flowed from that decision that any exclusion of non-nationals from Canadian legislation conferring economic, social or cultural benefits could be challenged under section 15 of the Charter.

28. The question of child support on the dissolution of a marriage was covered by the federal Divorce Act and by provincial laws governing child support in other instances. Each province had its own enforcement system, supported by federal enforcement services. In general, legislation imposed obligations on both parents to support children of the relationship and where one parent failed to provide support, the other could apply to the Court for an order. There was currently a federal/provincial/territorial working group to examine child support guidelines with the aim of establishing a predictable and simple mechnamism to ensure adequate support awards.

29. Concerning discrimination in relation to housing against pregnant women and families with children, most if not all provinces included legal protection against discrimination in that area in the human rights codes. There did not seem to have been a large number of complaints in that area.

30. Concerning eviction and arbitrary rent increases, all provinces in Canada had legislation to protect tenants from arbitrary eviction, discrimination and other abuses, as well as from eviction from public housing. There did not appear to be the same degree of protection from eviction from rooming houses, although residential tenancy legislation in some provinces did apply to that category. Rent control was a provincial responsibility and only four Canadian provinces were reported not to have rent control legislation.

31. Concerning the question of which provinces did not provide protection against refusal of housing on the basis of low income, receipt of social assistance, marital or family status, and indebtedness, there had not been time to obtain information from all provinces, although it should be noted that relevant amendments to human rights codes were currently before the legislatures of several provinces. Marital and family status was already covered in the vast majority of codes. There had been a recent case in Canada in which an individual had brought before the courts an action that the Canadian Human Rights Code was in violation of section 15 of the Charter because it did not include sexual orientation amongst its prohibited grounds of discrimination. The Ontario Court of Appeal had found that it did contravene a section 15 and its decision had not been appealed by the Federal Government.

32. In response to questions about Canada's aboriginal people, an important specific measure intended to improve their situation was the 1990 Native Agenda. Since its introduction over $800 million in additional funding had been committed to improving social and economic conditions in aboriginal

communities across Canada. However, despite specific programmes, most social and economic indicators showed that Canada's aboriginals were still amongst the most disadvantaged of all Canadians.

33. Mr. ROBERTS (Canada) said that while very proud of the quality of life reflected on the high ranking given by the United Nations Development Index, Canadians had been made aware that some groups were vulnerable, particularly in times of economic downturn.

34. The questions asked by the Committee relating to poverty, dependency and income distribution mirrored the concern of the Government of Canada and the provincial governments. There had recently been a shift in the approach taken to income security and social policy issues, as laid out in a paper presented by Canada at the Ministerial meeting of the Organization for Economic Cooperation and Development in Paris in December 1992. The paper had dealt with the need to address the root causes of poverty through active measures, including better education and training, recognition of the importance of social and family supports and encouragement of greater participation in the economy by disadvantaged members of society.

35. Among its policies to that end, the Government had programmes catering not only for the population in general, but also for particular groups, such as people with disabilities, the elderly and children at risk, as well as programmes on such specific issues as family violence.

36. The Canada Health Act assured universal access to a wide range of health care services, including services for expectant mothers and for young children. The Unemployment Insurance programme provided a wide range of benefits for people experiencing disruption in their employment, including maternity and parental leave. The Canada Assistance Plan contributed to provincial social assistance programmes for people in need and to income support services. Under the Vocational Rehabilitation of Disabled Persons Act the Federal Government contributed half the costs incurred by provinces providing programmes for physically and mentally disabled persons. The Canada and Quebec Pension Plans provided retirement benefits, as well as income support for persons with disabilities and for dependants of deceased persons. The federal Old Age Security and Guaranteed Income Supplement programmes benefited older Canadians.

37. He drew the Committee's attention to Brighter Futures: Canada's Action Plan for Children, a $500 million group of long-term programmes announced in 1992, too late to appear in Canada's report. Its Child Development Initiative aimed to prevent the problems experienced by "Children at risk" from eventually producing developmental disabilities or delinquency. An additional $145 million was being provided over five years towards Indian and Inuit Mental Health and Child Development Initiatives and $15 million for solvent abuse prevention.

38. Another element of Brighter Futures was the Child Tax Benefit, which from January 1993 combined the former Family Allowance transfer and tax assistance into one larger, incomes-tested benefit for families with children. It included an additional earned-income supplement.

39. The Government was determined to reduce socio-economic inequities in health, which remained directly related to economic status. Progress was being made in reducing the difference in life expectancy at birth between the highest and lowest income quintiles. In 1971 the difference had been 6.3 years for men and 2.8 years for women. By 1986 those differences had decreased to 5.6 years for men and 1.8 years for women. Research indicated that low-income Canadians were more likely to die as a result of accidental falls, chronic respiratory disease, pneumonia, tuberculosis and cirrhosis of the liver. Other disorders were also more prevalent among low-income groups; they included mental health disorders and high blood pressure.

40. Canada had accordingly adopted a reform agenda to address differences in health status, reallocating resources to health promotion. In March 1992 it had undertaken to provide an additional $270 million over the following five years for the country's Drug Strategy, first introduced in 1987.

41. His delegation confirmed that the most vulnerable groups in Canada were single parents, persons with disabilities, the elderly and aboriginal people.

42. The growth in the number of single parent families had been extremely rapid over the previous decade, and the proportion of those families living in poverty was higher than for any other group. The new Child Tax Benefit would be of help, but more had to be done. Persons with disabilities were also disproportionately represented in low-income figures. Data collected in the 1991 Post-Censal Health and Activity Limitation Survey would be included in Canada's third report. Canada's population was ageing, although less than in some other countries. More people were, however, eligible for Canada and Quebec Pension Plan benefits. While most elderly people were better off, some sub-groups such as unattached females were relatively poorer. Aboriginal people continued to experience severe conditions of poverty, ill-health, substance abuse and other social ills. However, the level of public awareness and concern had grown significantly and aboriginals were taking greater control over their own health and social services.

43. Turning to the specific issues raised in document E/C.12/1993/WP.7 in regard to paragraph 16, he said that all available resources and income had to be taken into account in assessing a person's eligibility to receive social assistance.

44. On paragraph 17, he said that provincial child protection laws did not include economic circumstances as a criterion for removing children from their homes; social assistance and social housing were available to all in need, particularly families with children. However, the conditions that often led to the report of children at risk were correlated with low-income circumstances.

45. With regard to paragraph 19, there was no official or generally accepted poverty line in Canada. Low-income cut-offs (LICOs) were merely relative measures, but were widely used to study poverty issues. LICOs were based on family expenditure. On the assumption that a low-income family was one that spent proportionally more on basics than an average family, with

adjustments to account for differences in family size and size of locality, one in six Canadians (4.2 million) had been in low-income circumstances in 1991. About 320,000 two-parent families (10.7 per cent of the total) and 230,000 single-parent families (57.5 per cent of the total) had low incomes in that year. The number had, however, dropped substantially from the 1984 figure. The position of the elderly had also improved. For couples the incidence of low income had declined from 17.7 per cent in 1984 to 9 per cent in 1991 and for the unattached elderly from 55.9 per cent in 1984 to 33.7 per cent in 1991. LICOs were not a valid measure of the incidence of poverty among the aboriginal population, since they were based largely on data representing urban areas of southern Canada. Assessments of aboriginal poverty might be misleading, particularly given the influence of cultural differences and values. A study based on the results of the 1986 census indicated that 25 per cent of aboriginal women and 13 per cent of men had had no income at all. Of those who had incomes, women averaged $9,828 and men $15,760. The figures were substantially lower than those for other Canadians.

46. On paragraph 20, he said that no province explicitly linked assistance levels to the LICO lines. According to a report by the National Council of Welfare regarding provincial social assistance rates, the total welfare income as a percentage of the LICO line varied between 54 and 79 per cent for single-parent families, 49 to 75 per cent for persons with disabilities and 25 to 62 per cent for single employable people. The figures were not necessarily reliable, however, since they did not reflect sources of income other than social assistance or the variety of non-cash benefits available.

47. With regard to paragraph 21, a 5 per cent limit had been placed on the growth of transfers to the three provinces with sufficient fiscal capacity not to receive equalization payments.

48. Turning to paragraph 22, he said that there were no simple solutions to the causes of low incomes for single-parent families. Many new measures had been taken, including the Child Tax Benefit, which would provide an additional $2.1 billion for families with children over the following five years: $1,233 per child annually for low-income families, with an additional $500 for low-income working families. Child care costs were shared by the Federal Government and provincial governments, the federal share being $275 million in 1992/1993. In addition, child care allowances were provided for parents on officially sponsored training programmes. Initiatives had been taken to promote equal pay for equal work in order to reduce the wage gap between men and women, and to increase the proportion of women in the full range of occupations.

49. On paragraph 23, he said that real family incomes had increased everywhere between 1985 and 1990, offsetting losses which had occurred during the recession of the early 1980s. The trend had applied to all types of family. The improvement was particularly evident when the equalizing effect on income distribution caused by government transfers was taken into account. Income tax also reduced disparities. Thus, in 1990, the lowest 20 per cent of families on the income scale had received only 2.7 per cent of income before the receipt of transfers and payment of taxes, but had received 6.4 per cent of income after the receipt of transfers and 7.6 per cent after the payment of income taxes. On the other hand, the top 20 per cent of families had

received 42.8 per cent of income before transfers, 39.3 per cent after transfers and 36.7 per cent after taxes. The share of total income after tax for the lowest 20 per cent of families had increased from 7.2 per cent in 1980 to 7.6 per cent in 1990, while for the highest 20 per cent of families it had remained stable at about 36.7 per cent over the same period. The share of total income after tax for the lowest 20 per cent of unattached individuals had increased from 5.3 per cent in 1980 to 6.9 per cent in 1990, whereas the share for the highest 20 per cent had decreased from 41.7 per cent to 40.2 per cent.

50. On paragraph 24 he said that despite two recessions in the 1980s the overall trend had been an increase in average family income of 8 per cent between 1980 and 1990. Other measures of living conditions, such as mortality and other health indicators, also indicated an improvement in living standards.

51. With regard to paragraph 25, he referred the Committee to paragraphs 102 to 120 of the report, which provided background information on federal social housing programmes; there had not been time to compile complete information from the provinces. According to an official survey conducted in 1991, some 1.16 million households (12 per cent) had "core housing need" status. Single-mother families had formed a high proportion of those in core need - 32.5 per cent - as had elderly unattached females. The overall proportion of core need had declined, however, since 1988. There was no specific information on the extent of homelessness, though he acknowledged that it presented a problem which was being addressed in every community through the provision of emergency shelters and other measures. Nor were provincial statistics on evictions and waiting lists for non-profit housing currently available.

52. Taking paragraphs 29 to 33 together, he said that at the end of 1992 there had been 338,000 assisted housing units under subsidy under joint federal and provincial programmes and a further 315,000 under other federally operated programmes, at a total annual cost of $1.6 billion. That represented approximately 6 per cent of the total housing stock. In some provinces independent programmes would raise that total. The Department of Indian Affairs and Northern Development had also spent over $250 million for housing and loan guarantees on Indian reserves. Other forms of assistance, such as supplements, tax rebates, savings incentives and loan forgiveness to rehabilitate dwellings, were also provided. According to the 1986 census, almost 17 per cent of households spent 35 per cent or more of their income on shelter. Households in assisted units generally paid a specific portion of their income, the ability to pay being used as a criterion by landlords and mortgage companies. No information was available on the proportion of all housing units that were accessible to persons with disabilities, but between 1986 and 1990, 8,900 - 12.7 per cent - of all new social housing units had been modified for persons with disabilities.

53. Regarding paragraphs 35 and 36, he said that although food banks were viewed by many as an indication of the inadequacy of income assistance in many provinces, it could also be seen as a demonstration of public concern. The first food bank had opened in Edmonton, Alberta in 1981 and by 1991 there had been 292 in Canada, operating or supplying over 1,200 grocery programmes and

580 meal programmes in some 300 communities across the country. In 1990, some 590,000 people had received monthly aid from food banks, with children under 18 accounting for about 40 per cent of food bank beneficiaries. Data were not available on how adequately the food distributed through food banks met the Food Guide Recommendations.

54. On paragraph 37, he said that in 1971 there had been a twofold difference in infant mortality between the highest income quintile (10.2) and the lowest income quintile (20.0). By 1986 the difference had declined to 4.8, with an infant mortality rate of 5.8 for the highest income quintile and 10.5 for the lowest income quintile. More recent statistics would be included in the third report.

55. Turning to paragraph 38, he said that life expectancy had increased from 70.6 years in 1971 to 73.8 in 1986 for males and from 78.4 years in 1971 to 80.4 in 1986 for females. The difference in expectancies between the highest and lowest quintiles had narrowed from 6.3 years to 5.6 for males and from 2.8 years to 1.8 for females.

56. Regarding paragraph 39, recent legislation would bring Canadian patents protection for pharmaceuticals into line with international practices. The cost of pharmaceuticals depended on a number of factors, including the price of the drug, usage and market preferences. Bill C-91 was expected to result in some increases in drug prices, but its impact on the cost of pharmaceuticals in Canada was impossible to predict. Drug programmes in all provinces covered senior citizens and people on social assistance. The coverage of other groups differed in the various provinces. Higher levels of user fees might be imposed in some provinces, but they should not affect people living below the poverty line. There would therefore be no change in the health status of those Canadians.

57. On paragraph 40, he said that "deinstitutionalization" in several provinces had significantly increased the number of patients in community and home settings. A good example was the Riverview Hospital in British Columbia, where the residential population had decreased from 1,220 in 1987 to 902 in April 1993.

58. Turning to paragraph 41, he said that, the provision of health care, funded by the provinces, was based on need rather than income or cost of services. No action was planned to limit services on the basis of age or any other socio-demographic variable. Health costs associated with an ageing society were manageable and the provinces were collaborating with the Federal Government to ensure that health and social support needs were addressed in a fiscally and socially responsible manner.

59. Finally, on paragraph 49, he said that the Federal Government had just renewed the Seniors Strategy, which allocated $170 million over five years to programmes to increase the participation of older people in society, including its cultural aspects. Moreover, reduced rates or free entry were available for many activities, such as theatres, cinemas, museums and concert halls. Most post-secondary institutions offered reduced-rate or free tuition to people over 65. Regulations were helping to ensure that public buildings were accessible to people with disabilities.

60. Mr. SIROIS (Canada) dealing with paragraphs 42 to 47 in the list of issues contained in document E/C.12/1993/WP.7, said, with respect to paragraph 42, that education in Canada was available to all without distinction based on any disadvantage. Primary and secondary education were free and fees at university level represented a very small proportion of the cost. Clearly, however, not everyone was able to benefit equally from the teaching programmes available. Economic, geographical and cultural obstacles existed, but the governments were trying to eliminate them and to provide students with the necessary assistance to overcome them.

61. With respect to students with physical or mental disabilities, the general trend was to enable them as far as possible to follow the same curricula as others of their age. Where that was impossible, such pupils were taught in special schools, but only when essential and if possible for a limited period.

62. With respect to teaching for aboriginal people, detailed explanations had already been given on that subject in the report. The Federal Government took responsibility for educating young Indians under the Indian Act, either in schools run by the Federal Government or, under agreement, by the provincial and territorial governments.

63. It was the policy of the Federal Government to transfer control of education in Indian reserves to the local authorities. As explained in paragraph 158 of the report, the majority of schools on Indian reserves were administered by the local authorities, and that trend was continuing.

64. The statistical information made available to the Committee contained encouraging figures on enrolment at all educational levels and on improved rates of regular school attendance in reserves.

65. Aboriginals living outside the Indian reserves had access to the same teaching programmes as the rest of the population. Provincial and territorial governments had given many examples of the special measures adopted to assist aboriginal students in overcoming the obstacles they encountered.

66. On paragraph 43, he said that the aim of the national literacy programme, set up in 1988, was to check adult illiteracy through activities undertaken in conjunction with provincial and territorial governments, voluntary bodies and the business world. Financial assistance under the programme was given to five major types of activity: making the public aware of the problem, the coordination and pooling of information, direct access and action, educational material and research. A survey on adult literacy carried out in 1989 indicated that some 15 per cent of the population had serious difficulties. Although it was still too early to assess the progress made since the introduction of the new initiatives, there had been improved access to education; teaching materials had been developed; there was a better exchange of information about literacy, a better understanding of the needs of students and a broader awareness of the seriousness and extent of the illiteracy problem. The national literacy programme took particular account of the needs

of the aboriginal people and had subsidized a wide range of projects undertaken with and for them. It had financed research on literacy in the mother tongue of aboriginal peoples and had encouraged such activities in a number of communities in the north of the country where aboriginal languages were spoken.

67. Financial assistance had also been given under the programme for the assessment of the literacy needs of various aboriginal communities. The Federal Government, in conjunction with relevant ministries, had recently sponsored an exhaustive evaluation of the literacy needs of the aboriginal peoples of the country. It had also supported efforts to design alphabets for aboriginal languages. The Government of Manitoba, British Colombia and New Brunswick were giving particular attention to that matter.

68. On paragraph 44, he said that in 1990/1991, the drop-out rate had been 32.1 per cent for the whole country, while the year before it had been 33.7 per cent. The rate, calculated by comparing the number of pupils who started the ninth year of schooling with the number completing the twelfth year, took account of differences between the educational systems of the provinces.

69. The drop-out rate varied in each province. In 1990/1991 it had ranged between 15.3 per cent in New Brunswick and 35 per cent in Alberta. In Yukon it was 50.7 per cent and in the North Western Territories, 67.6 per cent. The rates were only indicative, for there was no universal definition or entirely reliable method of measuring the drop-out rate, and the provinces did not use the same method.

70. There were no specific data on the drop-out rate among students from a disadvantaged background in relation to the whole student population. The problem was recognized and efforts were being made to encourage disadvantaged young people, and indeed all students, to continue their studies. In 1990 the Federal Government had launched a campaign to alert the public to the consequences of dropping out of school and to encourage young people to continue their education. Under that programme business, workers, teachers, young people, parents, voluntary and other groups were involved in working together to find solutions to school drop-out problems. The Government considered that two-thirds of all the jobs that would be created in Canada during the present decade would require more than 12 years of study and training. Consequently, young people who dropped out of secondary school might well find it difficult to adjust to the labour market. For Canadian society that would mean an unacceptable waste of human potential, high social costs, and a loss of skills and productivity which might be harmful for the economy. Although education was the responsibility of the provinces, the Canadian Government was concerned at the consequences of dropping out of school for the entire population. It had therefore decided to make a practical contribution to efforts to solve the problem.

71. Turning to paragraph 45, he said that he would give the Chairman a document containing the statistics and explanations requested. Payments were determined yearly, in accordance with a procedure laid down by law: a per capita allocation, multiplied by the number of inhabitants of the province or territory. The increase in the transfer payments was the result

of two factors, namely, a percentage increase and an increase in population. During the last three years, the percentage increase had remained the same but the total transfer payments had gone up, because of an increase in the population. However, in some provinces there had been a slight reduction because of a decline in population.

72. With regard to question 46, he explained that during the last five years tuition fees had increased on average by some 11 per cent whereas public expenditure on post-secondary education had increased by an average of 7 per cent. The situation differed in each province. In some provinces, fees had increased rapidly during the last few years, following a period of stability. For 1991/1992, the tuition fees paid by students represented 10.5 per cent of expenditure from all sources on post-secondary education in Canada. No specific data were available for comparing the increase in tuition fees with the increase in assistance to students.

73. The question had probably been raised because the members of the Committee wondered whether tuition fees could represent an obstacle to university education. In that connection, he quoted the comments of the Maritime Provinces Higher Education Commission, to the effect that since there had been no evidence that tuition fees in themselves were a major impediment to increasing accessibility, the Maritime Provinces Higher Education Commission had never recommended the elimination of tuition fees to achieve free education at the post-secondary level. The Commission had recommended for many years that tuition fee levels should increase in proportion to increases in government grants. At the same time, it had strongly supported programmes of student aid for students who could not afford higher education tuition fees. While that was not equivalent to free education, it was obviously one important measure to assist in complying with the Council of Maritime Premiers policy and the objective of article 13 (c) of the Covenant.

74. The policy of the Council of Maritime Premiers was that any qualified student should have access to a university programme in the maritime provinces region, although not necessary at the university or on the subject of first choice.

75. Turning to question 47, he quoted a reply received from the Government of Manitoba, where educational programmes were made available to senior citizens, with training for those working with them and support for post-secondary institutions in developing instruction, research and programmes on gerontology. Tuition fees were waived for senior citizens enrolled in community colleges and universities. That was the model throughout Canada.

76. Mr. DESLAURIERS (Canada) said that he would like to supplement the information supplied by representatives of the Federal Government with particular reference to the province of Quebec. The Quebec Charter of Rights and Freedoms was designed to protect the rights set out in articles 10 to 15 of the Covenant. Article 10 of the Covenant, on the protection of the family, contained provisions similar to those in articles 39, 47 and 48 of the Quebec Charter; article 11 of the Covenant, on the right of everyone to an adequate standard of living, had its counterpart in article 45 of the Quebec Charter; article 12 of the Covenant, on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, corresponded to

articles 2, 39 and 46 of the Charter; articles 13 and 14 of the Covenant, on the right to education, contained provisions similar to those in articles 40 and 41 of the Quebec Charter and other legislation. Various other provisions of the Charter, including articles 3, 43 and 44, set out rights on participation in cultural and scientific life and enjoyment of the benefits of scientific progress analogous to those in article 15 of the Covenant.

77. On the subject of alimony paid to a spouse with custody of the children of a marriage that had broken down, he said that, as stated in paragraph 385 of the report (E/1990/6/Add.3) Quebec had adopted legislation to favour economic equality between the spouses. None the less the amount of alimony was decided on the basis of the income and needs of the former spouses and the children and of previous commitments. In addition, articles 659.1 et seq. of the Civil Code of Quebec provided for distraint for late payment of alimony by an official appointed by the Ministry of Justice.

78. Question 18 asked about legal protection from discrimination against pregnant women and families with children in housing. Article 10 of the Quebec Charter prohibited discrimination on the grounds of pregnancy, civil status or social condition. Moreover, article 1665 of the Civil Code provided that a person could not be refused a lease on the sole grounds of pregnancy or of having one or more children unless refusal was justified by the limited space of the housing unit.

79. Most of the paragraphs including Nos. 26, 27, 28 and 34 on housing under article 11 of the Covenant were covered by articles 1607 to 1665.6 of the Civil Code in Quebec.

The meeting was suspended at 5.05 p.m. and resumed at 5.20 p.m.

80. Mr. Muterahejuru took the Chair.

81. Mr. ALVAREZ VITA, having thanked the Canadian delegation for its explanations, asked, in connection with paragraphs 197 to 204 of the report how international cooperation was carried out with developing countries, as well as with the international organizations and countries mentioned in those paragraphs.

82. In connection with paragraphs 29 and 30 of the report, he had received a letter from the Canadian Council of Churches, which he would hand to the delegation, referring to a number of objections to compliance with articles of the Covenant that were being considered at the present session. The complaints referred to refugee children and the rights of Canadian children, and the letter referred to the Convention on the Rights of the Child, to which Canada was a party, as well as to the Covenant.

83. He wondered whether, in view of the disadvantaged situation of certain groups in Canada, the decline in the cost-sharing ratio of social assistance as a result of the Federal Government's fiscal policies was not in contradiction with the Canadian Charter of Human Rights and Freedoms and with article 2 of the Covenant.

84. Mr. Alston resumed the Chair.

85. Mr. GRISSA asked for more information regarding the measures taken to ensure protection of the rights of those sectors of Canadian society least able to defend themselves, such as single mothers, or ethnic groups living in isolated communities remote from centres of employment. The law provided for the protection of such groups; how effective was that protection? He also noted that paragraph 91 of the report implied that the food banks received food only from private donations. Was that the case, or were they also assisted by the Government?

86. Mr. RATTRAY noted that the Canadian economic system was increasingly based on the free market, liberalization and privatization. Were there remedies available against individuals who, by the exercise of the power vested in them, were able to deny others access to some economic, social and cultural rights (for instance, because the level of prices was left to market forces)? With regard to education, and referring to paragraph 158 of the report, he asked whether results suggested that the quality of the education dispensed in the Indian territories and Northern Territories was inferior in any respect to that available to other sectors of Canadian society. Specifically, he asked for figures on drop-out rates at secondary and tertiary levels in those territories.

87. Paragraphs 172 to 183 of the report showed that Canada now possessed a rich and diverse cultural heritage, and that systematic efforts were made to promote multiculturalism. How far, in practice, had recognition of the equality of those diverse cultures been attained, and was there any evidence of deep-rooted prejudice that might impede attainment of that equality?

88. Mr. SIMMA recalled a remark made some time ago by the Canadian delegation, during its first appearance before the newly constituted Committee, to the effect that the system of social welfare in Canada was closer to the Scandinavian than to the United States model. In the light of the information just submitted, he wondered whether the Canadian system was not now moving closer to the United States model (as, perhaps, was the Scandinavian system itself). Statistics showed that while Canada was the richest of the major industrialized countries to have ratified the Covenant (with a per capita GDP 60 per cent higher than Germany's), it also recorded poverty rates much higher than those of most other industrialized countries. What was the Canadian Government's understanding of the commitment contained in article 2 of the Covenant, whereby a State party would take steps to achieve realization of the rights recognized therein "to the maximum of its available resources"?

89. His second question related to the Court Challenges Programme. He had been most impressed by that Programme, which seemed to him an ideal means of helping the most vulnerable groups to vindicate their rights. It was, after all, totally illusory to confer rights on people who did not have the means to enforce them. It was thus startling to read that, since a solid body of

jurisprudence had now been established by the Programme, it had been decided that there was no further reason to continue it. Particularly in view of the small cost of the Programme, was there any possibility that it might be resumed, perhaps in the form of a foundation?

90. With regard to the question on homelessness put by the pre-sessional working group, he had been surprised that the Canadian delegation was unable to provide statistics on that question. A 1987 study by the Canadian Council on Social Development had given the number of homeless persons as 260,000 (1 per cent of the population). It was encouraging to see that someone, at least, was compiling statistics on homelessness in Canada; but were there really no government statistics available?

91. His last question related to the Fernandez case, which concerned a person who had wished to continue to live at home, with the assistance of a nurse; whereas the Government had taken the view that he should be hospitalized. On appeal, the Attorney-General of Manitoba had taken the position that the Charter did not sufficiently protect rights under section 7, with the possible exception of extreme cases where needs fundamental to human life or survival were involved. The Canadian delegation had stated that in the Fernandez case the court had held that basic necessities had been met through the provision of medical care. Did that mean that the Government of Canada took the position that meeting needs fundamental to life or survival was all that was required in order to secure compliance with article 11 of the Covenant; or were considerations of human dignity also involved?

92. Mrs. BONOAN-DANDAN drew the Canadian delegation's attention to paragraph 98 of the document submitted by the National Anti-Poverty Organization, which referred to evidence submitted to the Ontario legislature in 1986, estimating that upwards of three quarters of all housing stock consisted of adult-only apartment complexes, and citing instances of families who had had to relinquish their children to foster-care as a result of their inability to find housing. Furthermore, the provinces of Alberta, Newfoundland and Saskatchewan still permitted exclusion of children from housing. Did those situations not constitute violations of articles 10 and 11 of the Covenant?

93. It seemed that paragraph 13 of the list of issues submitted by the pre-sessional working group, concerning non-nationals, had not been addressed. In that context, she asked what provisions existed in the Canadian Charter of Rights and Freedoms for the protection of the family, where non-nationals were concerned. Lastly, with regard to the Court Challenges Programme which, for all its limitations, had been the only source of funding for disadvantaged groups wishing to avail themselves of the Charter, she asked how the Government envisaged assisting any such groups wishing to have recourse to it, now that the Programme had been scrapped altogether.

94. Mr. MUTERAHEJURU wondered how, in a country as richly endowed with resources as Canada, housing and food shortages could persist. He asked what was the impact of the economic recession on Canada's participation in international cooperation. Specifically, was the recession affecting

international cooperation on the environment; and what provision was there for sanctions to be applied to those violating international environmental norms, for instance, by dumping industrial waste in underdeveloped countries?

95. The persistence of illiteracy was a further matter for surprise. Had the Canadian authorities analysed the causes of that persistence? What steps did they envisage taking in order to overcome it? Finally, he asked for clarification of the meaning of the term "reserves", which seemed an inappropriate one to apply in the context of the Canadian Charter of Rights and Freedoms.

The meeting rose at 6.05 p.m.